

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

SHANNON BREWSTER, as Administratrix
of the ESTATE OF ALAN E. BREWSTER,

Plaintiff,

v.

Civil Action No.: 2:24-cv-00096
Honorable John T. Copenhaver, Jr.

LARRY STRICKLAND TRUCKING LLC,
an Ohio Limited Liability Company,
L & L EXCAVATING AND LAND CLEARING, LLC,
an Ohio Limited Liability Company, and
STRICKLAND FOREST PRODUCTS, LLC
an Ohio Limited Liability Company,

Defendants.

PETITION TO COMPROMISE AND SETTLE WRONGFUL DEATH CLAIM

Comes now Petitioner, Shannon Brewster, as Administratrix of the Estate of Alan E. Brewster, deceased (hereinafter “Petitioner”), by and through counsel, D. Blake Carter, Jr., and Bailey, Javins & Carter, LC, and hereby petitions this Court for an Order approving a settlement of the wrongful death claim on behalf of the Estate against Respondents, including, but not limited to, and any and all of their agent(s), employee(s), representative(s), assign(s), predecessor(s)/successor(s) in interest, parent company(ies), subsidiary(ies), shareholder(s), manager(s), officer(s), director(s) and/or other affiliated company(ies) (hereinafter “Respondents”). Such a procedure would preserve judicial and party resources. In further support thereof, Petitioner states the following:

1. On May 17, 2022, Alan E. Brewster died after injuries sustained while employed by and working for Larry Strickland Trucking.

2. Petitioner was duly appointed as the Administratrix of the Estate of Alan E. Brewster (hereinafter “Estate”) on August 8, 2022, by the County Commission of Kanawha County, West Virginia, and is acting as such at this time. *See Exhibit A.*

3. To pursue the claims of the Estate and the individual claims herein, Petitioner retained the law firm of Bailey, Javins & Carter, LC, by contingent fee agreement to pursue a wrongful death case.

4. A proposed confidential settlement agreement has been reached with Respondents.

5. Petitioner, by and through counsel, have negotiated a proposed settlement of the Estate’s claims against Respondents in a confidential amount, which amount provided in a sealed capacity to protect the confidentiality of the same, for the heirs and beneficiaries of the Estate of Alan E. Brewster. *See Sealed Exhibit B.*

6. That the said Alan E. Brewster, deceased, was survived by the following:

Shannon Brewster:	wife of decedent
Freddie Brewster	brother of decedent
Stephanie Brewster	sister of decedent
Jade Petrey	step-daughter of decedent
S.B.	minor child of decedent
T.B.	minor child of decedent
U.B.	minor child of decedent

7. That none of Alan E. Brewster’s surviving statutory beneficiaries are known to the Petitioner to be incarcerated or mentally incompetent.

8. That Alan E. Brewster died intestate.

9. That the Petitioner submits that proper notice of this settlement and hearing date have been given. Consents to the settlement distribution will be provided to the Court prior to the hearing to approve same.

10. Petitioner entered into a contract with Bailey, Javins & Carter, LC, providing for the payment of a percentage of the proceeds as a fee for legal representation. In order to maintain the confidentiality of the settlement, a separate sealed is provided to the Court setting forth the total settlement amount received in this case and the appropriate attorney's fee and expenses calculation. *See Sealed Exhibit B.*

11. Petitioner believes that the settlement is in the best interest of the Estate as this matter is contested and the jury could find in favor of Respondents.

12. The confidential monetary sum in the amount which is identified in *Sealed Exhibit B*, representing a settlement of the claim(s) raised against Respondents, is believed by Petitioner to be fair and reasonable, and Petitioner, acting on behalf of the Estate of Alan E. Brewster, and all potential beneficiaries, takers, and distributees, believes that the same should be accepted for the following reasons:

- a. The amount of money to be paid to Petitioner, on behalf of the Estate, for herself, for the potential beneficiaries, takers and claimants to this settlement, and for the potential claimants as a result of the wrongful death claim of the Estate is a substantial remedy and amount of money, and your Petitioner is of the opinion that it is the best offer and amount that can be obtained from Respondents given the presently known insurance coverage, in view of the circumstances of the subject incident, the disputed liability and cause of death, and all investigation undertaken to date; and
- b. That it is in the best interest of the potential beneficiaries, takers and claimants to this settlement, and the potential claimants for the wrongful death claim of the Estate to accept said settlement amount from Respondents and/or Respondents' insurer(s), in view of the risks a trial by jury present and considering the strengths and weaknesses of said action.

- c. That upon agreement of all parties, the settlement entered into between the above-referenced Petitioner and Respondents as named herein was entered into in good faith, as that term is defined, and had been interpreted, in the cases of *The Bd. Of Educ. Of McDowell Cty. v. Zando, Martin & Milstead, Inc.* 390 S.E.2d 796 (W.Va. 1990); *Cline v. White*, 393 S.E.2d 923 (W.Va. 1990); *Smith v. Monongalia Power Co.*, 429 S.E.2d 643 (W.Va. 1993); and *Dunn v. Kanawha Cty. Bd. of Educ.*, 459 S.E.2d 151 (W.Va. 1995).

13. Petitioner asserts that she has been afforded proper and learned legal advice in this matter and on behalf of the Estate of Alan E. Brewster and believes this proposed settlement amount to be just, fair and equitable under the circumstances; that she was not coerced, unduly influenced or induced to enter into the proposed settlement; and they respectfully request this Court to approve and ratify the settlement and grant her permission to execute all settlement documents to consummate the settlement of this matter.

14. Petitioner asks that this Court approve and authorize the payment of attorney fees and expenses as set forth in *Sealed Exhibit B*.

15. Your Petitioner asks that the Court provide for the distribution of the net settlement proceeds as set forth in *Sealed Exhibit B* or as determined by the Court and allow her to execute a full and final release as to all wrongful death claims against Respondents.

WHEREFORE, the Petitioner respectfully prays unto the Court that this Petition be inspected and filed; and that the Court approve the settlement as proposed after thoughtful and careful review by and on behalf of all interested parties.

SHANNON BREWSTER, as Administratrix of the
ESTATE OF ALAN E. BREWSTER,
By Counsel,

/s/ D. Blake Carter, Jr.

D. Blake Carter, Jr. (WVSB #9970)

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Counsel for Petitioner

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CERTIFICATE OF SERVICE

The undersigned counsel for Plaintiff, does hereby certify that on this 24th day of July, 2024 the **PETITION TO COMPROMISE AND SETTLE WRONGFUL DEATH CLAIM** was sent to the below CM/ECF participants. This document was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the below CM/ECF participants:

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/s/ D. Blake Carter, Jr.

D. Blake Carter Jr. (WVSB #9970)